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Attorneys for Defendants Southwest  
Human Development and Gwyneth Kelly

**UNITED STATES DISTRICT COURT**

**DISTRICT OF ARIZONA**

Jessica Kahraman, an individual; D.K., a minor,  
through his parent and guardian Jessica Kahraman;  
and K.K., a minor, through his parent and guardian  
Jessica Kahraman,

Plaintiffs,

vs.

The State of Arizona, a governmental entity; Arizona  
Department of Child Safety (“DCS”), a governmental  
entity; Sarah Kramer, individually and as an employee  
with DCS, and John Doe Kramer, her spouse; Sarah  
Mendez, individually and as an employee with DCS,  
and John Doe Mendez, her spouse; Madison Bell,  
individually and as an employee with DCS, and John  
Doe Bell, her spouse; Mecca Temple, individually and  
as an employee with DCS, and John Doe Temple, her  
spouse; Gregory McKay, individually and as an  
employee with the State of Arizona as the former  
Director of DCS, and Jane Doe McKay, his spouse;  
Michael Faust, individually and as an employee with  
the State of Arizona as the current Director of DCS,  
and Jane Doe Faust, his spouse; Banner Children’s at  
Desert, formerly Cardon Children Medical Center  
(“Banner”), an Arizona nonprofit organization; Ryan  
M. Stewart, M.D., individually and as an employee  
with Banner, and Jane Doe Stewart, his spouse; Maria

Case No. 2:22-cv-00375-SRB

**DEFENDANT SOUTHWEST  
HUMAN DEVELOPMENT’S  
MOTION FOR JUDGMENT  
ON THE PLEADINGS**

Chico, individually and as an employee with Banner, and John Doe Chico, her spouse; Southwest Human Development (“SWHD”), an Arizona nonprofit organization, individually and as a service provider for the State of Arizona; Drue Kaplan-Siekman, individually and as an employee with SWHD, and John Doe Siekman, her spouse; Gwyneth Kelly, individually and as an employee with SWHD, and John Kelly, her spouse; Michael Kelly, M.D. an individual, and Jane Doe Kelly, his spouse; John and Jane Does 1-5; and Black Entities 1-5,

Defendants.

Pursuant to Federal Rule of Civil Procedure 12(c), Defendant Southwest Human Development (“SWHD”) hereby moves for judgment on the pleadings on the sole claim asserted in Plaintiffs’ Second Amended Complaint (“SAC”) (Doc. 74) against SWHD. The only claim asserted against SWHD is Count Fifteen - negligent hiring and training. However, the SAC fails to state any allegations in support of this claim. Therefore, SWHD is entitled to judgment on the pleadings.

This motion is supported by the following Memorandum of Points and Authorities, as well as the entire records in this matter. Pursuant to Local Rule 12.1(c), prior to filing this motion undersigned counsel certifies she notified counsel for Plaintiffs of the issues asserted in this motion and the parties were unable to agree that the SAC was curable by a permissible amendment.

### **MEMORANDUM OF POINTS AND AUTHORITIES**

#### **I. Factual background.**

In this lawsuit, Plaintiffs Jessica Kahraman (“Mother”), D.K. and K.K. (collectively “Minor Children”) assert claims against numerous Defendants related to the removal of the Minor Children from Mother’s custody by the Arizona Department of Child Safety (“DCS”) and the dependency proceedings that followed. (*See generally* Doc. 74). The Minor Children were removed from Mother’s custody by DCS on December 28, 2018. (Doc. 74 at ¶ 71). Defendant Southwest Human Development, Inc. (“SWHD”) facilitated and supervised therapeutic visitations between Mother and the Minor Children from

February 2019 through November 2020. (Doc. 74 at ¶¶ 18, 76, 79-80). On November 9, 2020, the dependency proceedings were terminated, thereby concluding DCS's involvement, as well as the services SWHD provided to Plaintiffs. (Doc. 74 at ¶ 144).

The only claim asserted against SWHD is for negligent hiring and training of SWHD "employees, officers, and agents." (Doc. 74 at ¶¶ 283-284). The SAC contains no allegations relating to SWHD's hiring or training processes, much less how any such processes were allegedly deficient. The SAC does not allege how any such elusive deficiencies contributed to the underlying events or any harm to Plaintiffs nor even which employee, officer, or agent of SWHD was allegedly negligently hired or trained.

This case has been pending since November 16, 2021. Plaintiffs have filed two amended complaints, yet Plaintiffs still fail to include any allegations to support a negligent hiring or training claim against SWHD.

## **II. SWHD is entitled to judgment on the pleadings.**

Federal Rule of Civil Procedure 8(a)(2) requires a complaint to state "a short and plain statement of the claim showing that the pleader is entitled to relief." "[A] plaintiff's obligation to provide the 'grounds' of his 'entitle[ment] to relief' requires more than labels and conclusions, and a formulaic recitation of the elements of a cause of action will not do." *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 555 (2007). Rather, "[f]actual allegations must be enough to raise a right to relief above the speculative level." *Id.*

Here, the SAC fails to state any facts or allegations in support of Plaintiffs' claim that SWHD was negligent in its hiring or training processes. The SAC contains no allegations relating to SWHD's hiring or training processes, any purported deficiencies with such processes, how any purported hiring or training deficiencies contributed to the underlying events or any harm to Plaintiffs nor even which employee, officer, or agent of SWHD was allegedly negligently hired or trained. Quite simply, Plaintiffs utterly fail to satisfy Rule 8 pleading requirements to provide SWHD "fair notice" of the claim asserted against it.

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**III. Conclusion.**

Based on Plaintiffs' failure to state any allegations in support of their negligent hiring and training claim against SWHD (Count Fifteen), judgment on the pleadings must be entered in favor of SWHD. Since this is the only claim asserted against SWHD, SWHD must be dismissed as a defendant in this case.

RESPECTFULLY SUBMITTED this 15th day of November 2023.

**GRASSO LAW FIRM, P.C.**

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